



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

3731  
JFW

**Applicant:** Dale R. Schulze      **Examiner:** B.Pantuck  
**Serial No:** 09/966,971      **Art Unit:** 3731  
**Filed:** September 28, 2001      **Docket:** ETH-1579 (14826)  
**For:** Arrangement and Method for  
Vascular Anastomosis      **Dated:** September 28, 2004  
**Conf. No.:** 5810

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INTERVIEW SUMMARY**

Sir:

The comments submitted herein constitute Applicant's record of the telephonic interview of September 27, 2004 between Examiner Brad Pantuck and Applicant's Representative, Dermott J. Cooke, regarding the above-identified matter.

Examiner Pantuck proposed an Examiner's Amendment canceling claims 1-20 and amending claim 21 to place the application in condition for allowance with respect to claims 21-40. The proposed Examiner's Amendment comprised amending the last line of claim 21 to insert --the lumens of-- before "said vessels".

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 28, 2004.

Dated: September 28, 2004

  
Dermott J. Cooke

Applicant did not authorize the Examiner's Amendment because the prior art relied on by the Examiner and applied to date to reject claim 1, to wit, U.S. Patent No. 6,391,038 to Vargas, U.S. Patent No. 5,893,369 to LeMole, and U.S. Patent No. 5,972,024 to Northrup, III, et al. fail, singly or in combination, to teach or suggest the apparatus recited in claim 1, from which claims 2-20 depend. The Examiner concedes that the methods of claims 21-40 appear to distinguish over the applied art in view of the proposed Examiner's Amendment.

The Applicant maintains that the characterization of the sutures 24 of LeMole as creating a fluid passageway between vessels is misguided as the cutter 34 of LeMole creates the fluid passageway, whereas the sutures 24 merely provide the connection between vessels. The Applicant further maintains that Vargas fails to teach or suggest a wire inserted at separate locations to define a region of contact between a target vessel and a graft vessel, whereat the fluid passageway between vessels is created. The Applicant still further maintains that Northrup, III, et al. fails to teach or suggest a wire that creates a fluid passageway between vessels as recited in at least claims 1 and 21 of the instant application, and instead discloses a suture 20 that is designed to have a diameter that avoids creating holes or openings through which fluid could pass (col. 4, lines 35-42).

As the Examiner's Amendment was not authorized, and no agreement with respect to the art was reached, Examiner Pantuck indicated an Office Action will issue shortly.

Applicant respectfully requests that the Examiner reconsider the art in view of the comments discussed during the interview, and that a Notice of Allowance be issued promptly with respect to this application. Should the Examiner determine that anything further is desirable to place the application in even better form for allowance, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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